IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 03.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.390 of 2006

B.Sampath ... Petitioner

Vs.

1.The State of Tamil Nadu, rep. by the
Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Collector and
District Magistrate,
Vellore,
Vellore District. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records relating to the detention order passed by the second respondent pertaining to the order made in C.3.D.O.No.40 of 2006 dated 05.04.2006 in detaining the detenu under 2-F of Tamil Nadu Act 14 of 1982, as a Goonda, quash the same and direct the respondents to produce the detenu B.Sampath, son of Balan, aged about 30 years, who is detained in Central Prison, Vellore before this Court and set the detenu at liberty.

For Petitioner : Mr.O.S.Thilak Pasumbadiyar
For Respondents: Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

WEB COPY

O R D E R

(Order of the Court was made by V.DHANAPALAN,J.)

The petitioner by name Sampath, who is detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and

https://hcservices.ecourts.gov.in/hcservices/

Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 05.04.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 08.04.2006 was received by the Government on 10.04.2006 and remarks were called for on 11.04.2006 and the remarks were received by the Government on 02.05.2006 and the File was also submitted on 10.05.2006 and the same was dealt with by the Under Secretary on 11.05.2006 and by the Deputy Secretary on 22.05.2006 and finally, the Minister for Prohibition and Excise passed orders on 23.05.2006. The rejection letter was prepared on 24.05.2006 and the same was sent to the detenu on 26.05.2006 and served to him on 29.05.2006. As rightly pointed out by the learned counsel for the petitioner, though the under Secretary dealt with the matter on 11.05.2006, there is no explanation at all by the Deputy Secretary for taking time till 22.05.2006 to decide the matter. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for dealing with the matter by the Deputy Secretary is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

raa

WEB COPY

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

https://hcservices.ecourts.gov.in/hcservices/

To

1. The Secretary to Government, State of Tamil Nadu, Prohibition
and Excise Department, Fort St. George, Chennai-600 009.

2.The District Collector and District Magistrate, Vellore, Vellore District.

3. The Superintendent, Central Prison, Vellore.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

GG(CO)
SR/7.7.2006 HCP. No.390 of 2006

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/